

September 25, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON SEPA THRESHOLD APPEAL

SUBJECT: Department of Development and Environmental Services File
No. **L00CG266/B01C0075**

HOLMES POINT CORPORATE CENTER
SEPA Threshold Appeal

Location: 12019 – 76th Place Northeast

Appellants: **Greta Creswell and Leopold Gabay**
12035 Juanita Dr. NE
Kirkland, WA 98034

Applicant: Holmes Point Corporate Center *represented by*
Carl Easters
Easters & Kittle, Architects
195 Front Street North
Issaquah, WA 98027

King County: Department of Development and Environmental Services,
Land Use Services Division, *represented by*
Angelica Velasquez
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219
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SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal

EXAMINER PROCEEDINGS:

Hearing Opened: September 18, 2001
Hearing Closed: September 18, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Traffic safety

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. Greta Creswell and Leopold Gabay have filed a timely appeal of the SEPA threshold determination of non-significance issued for the Holmes Point Corporate Center. The proposal is to construct approximately 40,000 square feet of office space on a 60,000 square foot parcel located on 76th Place Northeast (Holmes Point Road) just south of its intersection with Juanita Drive. The Appellants reside on a parcel located two lots north of the Corporate Center property, with a fire station sited in between. All three parcels are zoned NB-SO.
2. The Appellants' appeal statement raises two issues that are subject to review within this proceeding. The first is whether the proposal will have an unmitigated significant adverse environmental impact with respect to traffic due to the underestimation of peak hour trips generated by the proposal and their resultant effects on levels of service at nearby intersections. The second question is whether the proposal will cause or contribute to a significant adverse environmental impact at the intersection Juanita Drive Northeast and Holmes Point Road due to the worsening of unsafe turning conditions.
3. At the public hearing held on this appeal on September 18, 2001, the Appellants made no serious attempt to challenge the technical bases for the trip generation figures used in analyzing the traffic impacts for this proposal. The Applicant's traffic study shows that, based on standard ITE trip generation rates for an office building use, the peak hour traffic generated by the Holmes Point Corporate Center will not create a level of service F condition at any of the intersections that the project impacts. It seems that the Appellants' property was previously under consideration by this Applicant as a potential office park location, and the challenge to the traffic impact analysis is mainly based on casual remarks made by the project proponent during prior negotiations with the Appellants.

4. The principle issue raised by the Appellants concerns the difficulties that they have encountered exiting their property onto Holmes Point Drive since the construction by the County of CIP 100597 in 2000. This CIP realigned the intersections of Juanita Drive Northeast/76th Place Northeast and Juanita Drive Northeast/Northeast 122nd Street in order to facilitate the predominate north/south traffic flow, including the installation of signals and turning lanes. As a consequence of the CIP the Appellants lost their prior direct driveway access to Juanita Drive Northeast. They were provided instead with a southerly connection to Holmes Point Road at a location approximately 30 feet south of its intersection with Juanita Drive Northeast.
5. The Appellants contend that this new access driveway location is both inconvenient and unsafe. During peak hour periods, when vehicles are backed up on Holmes Point Road south of the Juanita Drive intersection, the Appellants are blocked from entering into the traffic queue. Moreover, the signal at Juanita Drive Northeast/Northeast 122nd Street, some 150 feet north of the Holmes Point Road signalized intersection, appears to be in a southbound green phase at the same time left turns are being permitted from Holmes Point Road northbound onto Juanita Drive. This means that when the Appellants obtain an opportunity to enter the northbound queue on Holmes Point Road they are at risk of being cut off by right-turning southbound traffic from Juanita Drive. The Appellants contend that the addition of new traffic on Holmes Point Road with the development of the Corporate Center will increase both the length of the northbound queue and the frequency of southbound right-turning vehicles into the lane that they must cross to exit their property.
6. While the driveway exiting situation described by the Appellants may be dangerous as they claim, it is not clear that this is a problem that can be fairly laid at the feet of the Holmes Point Corporate Center proposal. As described by the Appellants, due to the inability to see the signal at Juanita Drive Northeast/Northeast 122nd Street from their driveway exit, the Appellants are subject to a risk from southbound right turn traffic at any time of day and under any traffic conditions. The problem, therefore, is with the driveway design and the attendant signal phasing at the two arterial intersections, not with the minor amount of additional traffic contributed by the Applicant. This conclusion is underscored by the fact that there is really no action that the Applicant can take to solve the problem. Accordingly, the SEPA threshold determination appeal must be denied.
7. While a SEPA appeal may not be an appropriate remedy for the Appellants' situation, other avenues are available to them. First, they should continue to pursue the question of appropriate signal phasing and signage with King County Department of Transportation officials. Second, they should bring the matter to the attention of their County Council representative. Third, if both of the foregoing approaches prove unsuccessful, they should probably consult with an attorney concerning possible legal remedies.

CONCLUSIONS:

1. The basic standard to be applied to the review of a threshold determination appeal is that the SEPA record must demonstrate the actual consideration of relevant environmental impacts. With respect to those relevant impacts shown to be actually considered, the decision of the SEPA official is entitled to substantial weight on review and shall not be overturned unless clearly erroneous based on the record as a whole.

2. The SEPA record discloses actual consideration by the Department of Development and Environmental Services of the potential environmental impacts of this proposal. The Appellants have not met their burden of proof to demonstrate that the determination of non-significance is either contrary to law or inadequately supported by the record and therefore clearly erroneous.
3. Based on the record, the decision of the SEPA official is not clearly erroneous, is supported by the evidence of record, and assures that there is no probability of significant adverse environmental impacts.

DECISION:

The appeal is DENIED.

ORDERED this 25th day of September.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 25th day of September, to the parties and interested persons of record

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OAK-DE-0100

MINUTES OF THE SEPTEMBER 18, 2001, PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO: L00CG266

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Angelica Velasquez and Kristin Langley. Participating in the hearing and representing the Applicant were Carl Easters and Terry Gibson. Appellants Greta Creswell and Leopold Gabay also participated in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services, Land Use Services Division, Report to the Hearing Examiner
- Exhibit No. 2 Determination on Non significance dated June 11, 2001
- Exhibit No. 3 Environmental checklist
- Exhibit No. 4 Appeal of DNS by Greta Creswell and Leopold Gabay
- Exhibit No. 5 Project site plan
- Exhibit No. 6 Map showing zoning of surrounding vicinity
- Exhibit No. 7 Traffic impact analysis
- Exhibit No. 8 Accident history at the intersection of NE 122nd Ave/Juanita Drive
- Exhibit No. 9 Accident history at the intersection of Holmes Point Drive/Juanita Drive
- Exhibit No. 10 Old configuration map
- Exhibit No. 11 New configuration map
- Exhibit No. 12 Packet of 27 photographs showing the area, taken by Leopold Gabay

- Exhibit No. 13 E-mail from Norton Posey to Linda Mott dated October 14, 1998
- Exhibit No. 14 October 17 (no year) note regarding “funky driveway”
- Exhibit No. 15 E-mail from Will Einstein dated January 4, 1999
- Exhibit No. 16 Checklist dated October 1, 1998
- Exhibit No. 17 Withdrawal and re-issuance of DNS dated October 9, 1998
- Exhibit No. 18 Two page document addressing the Creswell’s driveways and left turn lane to Madden’s property
- Exhibit No. 19 Trip Generator, 6th edition
- Exhibit No. 20 Pre-2000 map
- Exhibit No. 21 Post 2000 map
- Exhibit No. 22 Engineering drawing plan—possible driveway layout
- Exhibit No. 23 Final proposal design project, dated September 30, 1997